



# **City of Asheville Transit Marketing Program Request for Proposals**

**August 13, 2010**

**Issued by:**

City of Asheville  
Transportation Department  
Mariate Echeverry  
Transportation Planning Manager  
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**The inquiries concerning this request are due on (all inquiries by email)  
Wednesday, August 18, 2010 by 4:00 pm Local Time**

**RFP DUE DATE**

**FRIDAY, AUGUST 27, 2010 BY 4:00 PM LOCAL TIME**

**BIDS ARE TO BE SEALED THEN MAILED OR DELIVERED TO:**

**70 Court Plaza, City Hall - Mezzanine  
Asheville, NC 28801**

**BID OPENING DATE:**

**FRIDAY, AUGUST 27, 2010 AT 4:00 PM LOCAL TIME**



**City of Asheville  
Transit  
Solicitation No. TMP-MK- 8132010**

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## **I. BACKGROUND**

Asheville Transit is a City of Asheville service overseen by the city's transportation department. In October 2009, City Council adopted a Transit Master Plan (TMP) that reflects the priorities of both the transportation department and community. The TMP recommends operational changes and investments to infrastructure over the next 6-10 years with an overall goal of improving service. City Council approved the immediate implementation of a few key outcomes include improved marketing, on-time performance changes, increased frequency on key corridors and consolidation of evening and daytime routes. These aspects are expected to be implemented by January 15<sup>th</sup>, 2011 and will be rolled out with many of the deliverables from this Marketing Program.

Asheville Transit currently serves approximately 1.5 million riders per year (or about 5000 riders per day). Asheville Transit ridership peaked during the September 2008 fuel crises when approximately 7000 riders used Asheville Transit per day. Currently Asheville Transit has one Day system map and one Evening System map. Last year Asheville Transit printed and distributed approximately 8000 Day maps and 6500 Evening Maps. The majority of these maps are distributed at the Transit Center.

There are currently twenty-three (23) fixed routes served, predominantly within city limits (14 day routes, 2 University routes, one intercity route, and six evening routes). Through the implementation of the TMP, it is expected that total routes will be reduced to sixteen (16). Asheville Transit is also involved in two pilot Park-n-Ride facilities with local partnerships and four routes that connect with either Buncombe County transit services or Henderson County service.

The TMP calls for a strong messaging campaign aimed at making transit a part of the community lifestyle. There is a need to identify a marketing strategy and brand that will speak to Asheville's vibrant character while emphasizing the environmental and health benefits of using public transportation. Based on demographic data collected in the master planning process, target audiences include tourists and choice riders.

Additional upcoming changes in Asheville Transit include: new vehicle announcement systems, new fare boxes, the addition of 15 new hybrid and/or diesel buses, increases in the number of bus shelters, and re-aligning of 1100 unique bus stops.

The City of Asheville is interested in obtaining the services of qualified firms and/or professionals to advise, support, and execute efforts that include, but are not limited to graphic design services, development and execution of an integrated transportation marketing and communications program, website design options and public outreach.

The goals of this marketing program are: 1) improve Asheville Transit's public image, 2) inform the public of TMP route changes and 3) boost ridership by targeting choice riders and tourists. Deliverables as outlined in this RFP are not all-inclusive and consultants are encouraged to outline additional deliverables that will boost ridership, improve Asheville Transit's image and keep the public informed. See Unit Pricing in APPENDIX A for additional opportunities.

## **II. SCOPE OF SERVICES**

### **A. Marketing**

The marketing program should primarily target Asheville area commuters while also targeting university students, environmentally-focused consumers, tourists, and health advocates in an effort to make transit

part of the community lifestyle. The TMP suggests “swing” groups, or groups mostly unfamiliar with transit, offer the greatest opportunity for new ridership.

The new brand should convey an inviting image for transit. The image should be attractive and align with the City of Asheville’s brand. It should represent and/or build upon Asheville’s unique image. Decisions like colors, logos, names, route numbering/names, and new signage will convey the new brand and be consistent in all marketing materials.

The media placement of this new brand will be essential to inform the public that the City of Asheville has charted a new vision for transit service. Identifying the best brand placement markets for Asheville Transit will be a mark of the winning bid. Different advertising strategies will be required for advertising and for informing the public of changes resulting from the TMP. This placement should include typical advertising markets and new media markets.

Finally, the mapping and way-finding elements should demonstrate the new vision for transit. These elements should be easy to interpret and universal in nature. In other words, transit riders from other cities should be able to easily navigate transit routes using printed material. In addition, the appropriate number of printed materials should be identified in order to reach the target area commuters.

It will be the responsibility of the winning bidder to present a logical timeline for each of the deliverables to be coordinated with the City of Asheville’s operational implementation of the on-time performance changes, increased frequency on key corridors and consolidation of evening and daytime routes. These changes are expected to be implemented by January 15<sup>th</sup>, 2011.

## **B. Deliverables**

The following are minimum deliverables. Deliverables include design, and where applicable production and installation. The proposal when appropriate should detail printing costs (unit pricing) and specify the bidders suggested quantity of printing along with total cost.

- Marketing and Communications plan
  - Outline dates and agendas of all required public hearings and meetings
  - Provide templates for public meetings
  - Recommend strategies for public information
  - Recommend strategies on collecting public input
  - Next steps outside the scope of this project
- Branding
  - Agency Name
  - Slogan
  - Logo
  - Design of color schemes consistent with the color of the new buses
  - Assistance in using color schemes
  - Printing and installation of logo
- Mapping and way-finding
  - Information brochure
  - Transit passes
  - Route maps/schedules

- System maps/schedules
- Pocket maps/schedules
- Rack cards
- Signage
- Messaging board at transfer station

➤ Time-line for all aspects of the proposal.

The winning bid will convey a creative and innovative understanding of the unique role transit can play as a part of the community's lifestyle. Bidders with ideas beyond those listed in APPENDIX A are encouraged to submit those ideas under the "other" section of same.

In 2008 the City of Asheville completed an internal Sustainability Master plan. According to the plan, being sustainable means "making decisions that balance the values of environmental stewardship, social responsibility and economic vitality to meet our present needs without compromising the ability of future generations to meet their needs." One of the goals of the SMP is to increase the City's use of environmentally preferable products & services. Therefore, Asheville Transit requests that when possible bidders list two prices for each deliverable, one using conventional products and one using products that are certified by a third party or provide demonstrable proof of meeting the standards for certification set by an organization such as Green Seal or Eco Logo (see Unit pricing table in APPENDIX A.). In addition the certification that is being used needs to be specified.

The following characteristics of products or services support this effort:

At least 30% recycled content	recyclable	biodegradable
energy efficient, energy star	water efficient	alternate fuel capable
reduced packaging	reusability	rebuilt or remanufactured
life cycle cost accounting	organic	durability

### C. Tasks and Requirements

Asheville Transit expects the successful consultant(s) to complete the following tasks associated with the deliverables:

- Data collection, research, and analysis
- Design
- Recommendations for implementation
- Production
- Installation
- Presentations
- Cooperation with steering committee
- Reports

The winning bidder should be prepared to review the data collected in the TMP, the City of Asheville's existing marketing plans, the TCRP *Report 63: Enhancing the Visibility and Image of Transit in the*

*United States and Canada*, and other national transit marketing studies and show how their designs address the issues facing transit marketing. The consultant should be prepared to produce or solicit the production of the deliverables and in some cases provide for the installation of the deliverables as well as making recommendations for an implementation plan. For these reasons, the consultant must demonstrate that they have the capacity and staff support to manage such a comprehensive project and ensure prompt implementation. Finally the consultant should plan on preparing updates and a final report and be prepared to present these reports to the Transit Commission and City Council.

In addition to the tasks outlined above required to adequately provide the deliverables, Asheville Transit maintains the following requirements:

The successful bidder will be required to make available a senior member of the project team for monthly meetings with City of Asheville staff, to be held in Asheville, NC (as part of the negotiated fee). Travel expenses for attendance at any required meeting will be the sole responsibility of the proposer.

The consultant shall maintain a file containing all correspondence pertaining to the project and shall document the minutes for all meetings held pertaining to the project. All documents and plans, in either paper or electronic format, shall be the property of the City of Asheville upon completion of the project or termination of the contract.

The consultant shall submit and maintain a schedule with specified milestone dates for the project. The schedules should allow for necessary review periods for all parties involved with the project. The consultant shall submit invoices with a written, status report to the City of Asheville Project Manager, who reserves the right to request supplemental information to ensure appropriate project progress.

The firm (Consultant) selected through this Request for Proposals (RFP) shall provide Asheville Transit with support and assistance in the development and implementation of these activities in Fiscal Year 2010 Asheville Transit is seeking services for a one-year period with the possibility of two one-year extensions.

#### **D. Project Management**

City of Asheville transportation staff will be the primary contact during this procurement process and subsequent contract execution. The principal contacts at the City of Asheville for this Request for Proposals (RFP) will be:

For Contract Management:

Mariate Echeverry  
Transportation Planning Manager  
City of Asheville  
Phone: 828-232-4528  
mecheverry@ashevillenc.gov

All proposals become the property of the City of Asheville upon submission. The cost of preparing, submitting and presenting a proposal is the sole expense of the consultant. The City of Asheville reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel the RFP in part or in its entirety if it is in the best interest of the City of Asheville.

The City of Asheville reserves the right to accept or reject any or all Statement(s) of Proposals, with or without cause. All decisions related to this solicitation by the Selection Committee and City Council will be final.

The City reserves the right to request clarification of information submitted and to request additional information from one or more respondents.

It will be necessary for responding parties to comply fully with the general terms and conditions outlined in this document if they are to be considered. A letter attesting the respondent has read and understands all procedures is a part of the initial submission requirements (Use APPENDIX G).

City of Asheville will work with the selected firm or firms to finalize the scope of work, the study budget, and the final contract. In the event that City of Asheville is unable to reach agreement with the selected consultant firm regarding scope of work and/or cost, one of the other submitters may be chosen.

### **E. Contract**

In submitting this proposal the consultant agrees to the forms and conditions specified in the contract attached in APPENDIX B. This contract will be signed by the contractor after contract is awarded.

## **III. SUBMISSION INFORMATION, REQUIREMENTS AND INSTRUCTIONS**

- A.** Consultants or consultant teams are requested to prepare a proposal for submittal to the City of Asheville Engineering Department. In order to be considered responsive to this RFP, each proposal should conform to the following requirements. The consultant should please submit six (6) copies of the proposal.
- B.** Submissions shall be received by 4:00 p.m. on 27 August 2010 at the following location:  
City of Asheville Engineering Department  
70 Court Plaza  
Asheville, NC 28801
- C.** Inquiries: All inquiries and questions about this proposal shall be submitted in writing by email to Mariate Echeverry at the following address: [mecheverry@ashevillenc.gov](mailto:mecheverry@ashevillenc.gov). Questions shall be submitted by August 18, 2010, 4:00 p.m.
- D.** The Proposal package should consist of a technical proposal containing cover letter and seven tabbed sections as described below and an economic proposal with the proposed fee. The economic proposal will be presented in a separate envelope, signed and sealed. Please limit your proposal to 50 pages or less and number all pages. Cover page, tabs and dividers do not count toward the page limit. The cover letter must identify a contact person for questions during the process and provide contact information including telephone number, fax, e-mail and postal address. Please provide the following information in order by Tab:
  - TAB 1. Provide a Scope of Work as it pertains to the tasks addressed in section II Scope of Work and APPENDIX A Unit Pricing. The scope should elaborate on the process by which each of the tasks will be completed;
  - TAB 2. List any experience with preparing transit marketing plans in other urban areas. The description should give the specifics of the services provided, state the office location from which the work was performed, and include an explanation of why the project is considered similar. Please provide at least three (3) references, with phone number as part of the description of the projects;

- TAB 3. List the professional qualifications and relevant transit marketing experience of the individuals who will be directly involved in the project. The list of key individuals should include those who are expected to be involved with the project along with a brief statement as to each individual's expected role(s). The Consultant will submit resumes of key individuals outlining their qualifications as it pertains to this proposal;
  - TAB 4. List man-hours by employee position necessary to satisfactorily complete the tasks of the project.
  - TAB 5. List any other resources available to the project team including any sub-consultants that may be employed. The qualifications of sub-consultant employees should be furnished as described above; and
  - TAB 6. Provide a project plan demonstrating the ability to complete plans on time and within budget (based on current work load indicators and past performance).
  - TAB 7. Provided in this RFP, APPENDIX D, F, & G, please submit these signed by an officer of your company who can be held accountable for all representations.
- E. Economic proposal: Please submit proposal in a separate envelope, signed and notarized.
- F. **VENDOR APPLICATION AND LICENSES:**
- a. **\*Vendor Application:** Bidders may complete a City of Asheville Vendor Application and return it with bid response. Bidders may download the form from the City's website at the following link: [www.ashevillenc.gov](http://www.ashevillenc.gov). Look under the **BUSINESS** tab, select "Doing Business with the City" and select "Vendor Application" from the list of options. Directions for submittal are available on this page.
  - b. **\*Business Privilege License:** All vendors doing business with the city must have a business privilege license. Please include a copy of your license with the bid. If you do not have one, download the form from the same web page under "Doing Business in the City" and submit to the Accounting Division. Please include a copy of your application with the bid.
  - c. **\*NC Certificate of Authority:** All out of state vendors submit a copy of your certificate with your bid or register with the State of NC at <http://www.secretary.state.nc.us/Corporations/Forms.aspx?EntityId=2719996&Type=Nonprofit%20Corporation> and submit a copy once received.

#### IV. SELECTION PROCEDURES

- A. **Selection Process:** Evaluation of proposals will be performed by a committee composed of City of Asheville staff, members of the Transit Commission, and representatives from the Land of Sky Regional Council. The Proposals will be evaluated on the firm's ability to best meet the requirements of this RFP.
- B. **Selection criteria**
- Thoroughness of the proposal regarding the tasks addressed in the Scope of Services including "unconventional ideas" determined & designed by the firm (APPENDIX A).
  - Knowledge of technical requirements.
  - Scope of Work.
  - The firm's previous experience with similar transit master plans.
  - Qualifications and ability of key individuals identified in the proposal.
  - Man-hours required to complete the plan.
  - Quality and availability of staff assigned to the project.
- C. **Presentations:** Candidate firms may be asked to present their proposal to City staff before the final selection is made. This may require a senior member of the firm to be interviewed under short notice (~48 hour) in Asheville, NC; conference calls may be considered. Final selection



and the contract with the successful consultant will be subject to approval by the City of Asheville.

## **V. TENTATIVE SCHEDULE FOR SELECTION OF CONSULTANT**

Date	Anticipated Activity
8/13/10	Release of this RFP
08/18/10 – 4:00 p.m.	Questions regarding the RFP are due
8/27/10 – 4:00 p.m.	Consultant Proposals due at the City Hall, Transportation Department
9-14-10	Contract award

## **VI. ADDENDUM PROCEDURES (Attached)**

**APPENDIX A – UNIT PRICE & SCHEDULE:**

PLANNING	Development			Printing (3 Coppies)								Completion Date	Total Cost
	Cost/Hour	Hours	Total Cost	Total Cost									
Communications guide													
Marketing guide													
Implementation plan													
MEDIA PLACEMENT	Design			Purchase of Ad Spots			Possible Construction					Completion Date	Total Cost
	Cost/Hour	Hours	Total Cost	Unit Cost	# Required	Total Cost	Total Cost						
Print advertisement													
Radio Broadcast advertising													
TV Broadcast advertising													
Asheville Transit Website													
Web-Banner Advertising													
BRANDING	Design			Printing, Production, and Purchase					Installation			Completion Date	Total Cost
				Green Certified*			Conventional						
	Cost/Hour	Hours	Total Cost	Unit Cost	Total Cost	Certifier	Unit Cost	Total Cost	Cost/Hour	Hours	Total Cost		
Agency name													
Slogan													
Logo													
Color schemes (working with existing)													
Color schemes/logo on buses													
New uniforms with logo & color schemes													
MAPPING & WAY FINDING COST	Design			Printing, Production, and Purchase					Installation			Completion Date	Total Cost
				Green Certified*			Conventional						
	Cost/Hour	Hours	Total Cost	Unit Cost	Total Cost	Certifier	Unit Cost	Total Cost	Cost/Hour	Hours	Total Cost		
Customer information brochure													
Interior bus service announcement template													
Messaging board at Transit Center													
Transit Map (large)													
Transit Map (pocket size)													
Transit Pass													
Schedule/Map brochure for each route													
Route markers for each bus stop sign													
Signs for Transit Center and Transit Garage													
"Exit Rear" sign for bus ceilings													
Rack cards etc. for community partners													
Brand implementation on shelters & benches													
OTHER (Unconventional methods - social media & fun ideas)	Design			Printing, Production, and Purchase					Installation			Completion Date	Total Cost
				Green Certified*			Conventional						
	Cost/Hour	Hours	Total Cost	Unit Cost	Total Cost	Certifier	Unit Cost	Total Cost	Cost/Hour	Hours	Total Cost		
Ideas here													
TOTALS													

## APPENDIX B –CONTRACT

STATE OF NORTH CAROLINA

PROFESSIONAL SERVICES CONTRACT

COUNTY OF BUNCOMBE

NUMBER \_\_\_\_\_

# SAMPLE

THIS PROFESSIONAL SERVICES CONTRACT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the City of Asheville, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as “City”), and \_\_\_\_\_ (state of incorporation or type of organization) hereinafter referred to as (“CONTRACTOR”).

### W I T N E S S E T H :

Upon the terms and conditions hereinafter set forth, the City has requested and CONTRACTOR has agreed to furnish the City with professional services as set forth in this contract. The City and CONTRACTOR agree as follows:

#### A. TERMS AND CONDITIONS:

1. CONTRACTOR shall provide professional services as set forth in Exhibit A.
2. The term of this contract shall be from \_\_\_\_\_.
3. The City will compensate the CONTRACTOR a maximum amount of \$\_\_\_\_\_. The CONTRACTOR shall bill the City on a monthly basis. The CONTRACTOR shall bill the City \$\_\_\_\_\_ per hour. If the contract exceeds the aforementioned threshold, the City must amend or renew the contract in accordance with all applicable City policies.
4. The CONTRACTOR shall provide a timekeeping record of all hours worked and description of the duties performed during the hours worked. All timesheets shall be submitted to the \_\_\_\_\_ or his or her designee for review and payment of services. These time sheets shall be submitted on a monthly basis. The City shall pay all invoices within thirty (30) days of submittal.
5. Any employees furnished by CONTRACTOR, pursuant to this contract, will be employees of CONTRACTOR, an independent contractor. CONTRACTOR will maintain complete control over the employees’ conduct and will disburse all payrolls, taxes, license, insurances, uniforms and all other expenses incurred by CONTRACTOR in performing the terms of this contract.
6. The work performed under this Agreement has been classified as a high risk profile. The Contractor agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, automobile liability, workers compensation, employers liability, environmental liability and umbrella coverage in the amounts shown on the **City of Asheville Minimum Insurance Coverage and Requirements Matrix in effect as of the date of this Agreement incorporated herein to this Agreement and available to the Contractor upon request.** The Contractor shall furnish the City with certificates of insurance for each type of insurance described herein, with the City named as an additional insured on all coverages, except worker’s compensation. In the event of cancellation, substantial changes or nonrenewal, the Contractor and insurance carrier shall give the City at least thirty (30) days prior written notice. No work shall be performed by Contractor until Contractor has furnished to the City the above referenced certificates of insurance, in a form suitable to the City. In the event the Certificate of Liability Insurance includes a disclaimer, Contractor shall cause his Insurer to issue a Form CG20 10, or other Additional Insured Amendatory Endorsement showing City of Asheville as Additional Insured. The CONTRACTOR shall also provide for \$1,000,000 in professional liability insurance naming the City of Asheville as an additional insured. Additionally, CONTRACTOR will provide Workers’ Compensation Insurance for its employees. A copy of said coverages shall be provided to the City’s Risk Management Office.
7. CONTRACTOR shall indemnify, defend and hold harmless the City and its subsidiaries, divisions, officers, directors and employees from all liability, loss, costs, claims, damages, expenses, attorney fees, judgments and awards arising or claimed to have arisen, from any injury caused by, or allegedly caused by, either in whole or in part, any act or omission of the CONTRACTOR or any employee, agent or assign of the CONTRACTOR. This provision is not applicable to any claim arising out of or related to any active or primary negligence of or by City, its officers or employees.

8. Nothing herein shall be construed as a waiver on the part of the City to any defense of any claim, including, but not limited to the defense of governmental immunity.
  9. The Contractor shall be properly licensed and skilled in his/her respective trade.
  10. Contractor shall comply with all state, federal or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement, including but not limited to, equal opportunity employment laws, O.S.H.A., minimum wage and hour regulation, and North Carolina State Building Code regulations.
  11. All plans, designs and other documents created by the CONTRACTOR for the City shall be City property upon final payment.
- B. TERMINATION AND MODIFICATION: This contract may be terminated by either party, with thirty (30) days prior written notice. Notice shall be served under this contract by registered mail, certified mail or by other means.
- C. ENTIRE AGREEMENT: This agreement contains the entire agreement between the parties.
- D. SEVERABILITY: Should any provision or provisions contained in this agreement be declared by a court of competent jurisdiction to be void, unenforceable or illegal, such provision or provisions shall be severable and the remaining provisions hereof shall remain in full force and effect.
- E. GOVERNING LAW: This contract is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina.
- F. ASSIGNABILITY: This contract is not assignable by either party without the prior written consent of the other party.
- G. REQUIREMENT OF CITY CONTRACTS:
1. CONTRACTOR shall comply with the provisions of the Americans with Disabilities Act and all rules and regulations promulgated thereunder. CONTRACTOR hereby agrees to indemnify the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of CONTRACTOR, its subcontractors, agents, successors, assigns, officers or employees to comply with the provisions of the ADA or the rules and regulations promulgated thereunder.
  2. CONTRACTOR will comply with the City's Drug Free Workplace policy.
  3. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM: The U.S. Department of Transportation (FTA) Disadvantaged Business Enterprise Program (DBE) goals are hereby made a part of these contract documents. The goals for participation by Disadvantaged Business Enterprise firms and subcontractors on this project have been set by the City of Asheville, North Carolina at 1.01%, In accordance with Federal Regulation, 49CFR, Part 26, dated February 1999. The North Carolina Department of Transportation (NCDOT) Directory of Certified Disadvantaged Businesses can be found at <https://apps.dot.state.nc.us/vendor/directory/>. If you have questions regarding DBE outreach, please contact Yuri Koslen, Transit Projects Coordinator at (828) 232-4522 or ykoslen@ashevillenc.gov.
- H. RIGHT TO AUDIT: Contractor shall maintain all fiscal records relating to this Agreement in accordance with Generally Accepted Accounting Principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The City shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.
- I. Notwithstanding any other provisions of this Agreement, if the City does not receive said funding for this Agreement from the City Council for any fiscal year applicable to this Agreement, then the City shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.

## **APPENDIX C - FEDERAL REQUIREMENTS**

The following provisions are required either (i) by a grant agreement or cooperative assistance agreement between the USDOT and Asheville Transit or (ii) by a grant agreement or cooperative assistance agreement between the North Carolina Department of Transportation (hereinafter called the "NCDOT") and City of Asheville or (iii) by Asheville Transit itself. For such provisions, if there is variance between the language set forth herein and any such actual grant or cooperative assistance agreement, the provisions of the grant or cooperative assistance agreement shall govern.

To the extent applicable, the federal requirements contained in the FTA Master Agreement dated October 1, 2007, as amended (hereinafter called the "Master Agreement"), including any certifications and contractual provisions required by any federal statutes or regulations referenced therein to be included in this RFP document and the Contract, will be deemed incorporated into the RFP document and Contract by reference and shall be incorporated in any sub agreement or subcontract executed by the successful Consultant pursuant to its obligations under the Contract. Consultant and its subcontractors, if any, will represent and covenant that they have complied and shall comply in the future with the applicable provisions of the Master Agreement then in effect and with all applicable federal, state and local laws, regulations and rules and local policies and procedures, as amended from time to time, relating to the equipment or the services provided under the Contract, which may in any manner affect the performance of the Contract, including, without limitation, the following:

### **No Federal Government Obligations to Third Parties (by Use of a Disclaimer)**

#### **§ 2.f No Federal Government Obligations to Third Parties.**

In connection with the Project, the Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any sub recipient, lessee, third party contractor, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub agreement, lease, or third party contract at any tier, the Federal Government has no obligations or liabilities to entity other than the Recipient, including any sub recipient, lessee, or third party contractor at any tier.

### **False or Fraudulent Statements or Claims – Civil and Criminal Fraud**

#### **§ 3.f False or Fraudulent Statements or Claims.**

The Recipient acknowledges and agrees that:

(1) Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.*, and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the Recipient's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

(2) Criminal Fraud. If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government

reserves the right to impose on the Recipient the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001 or other applicable Federal law to the extent the Federal Government deems appropriate.

### **Access to Third Party Contract Records**

#### **§ 15.t Access to Third Party Contract Records.**

The Recipient agrees to require its third party contractors and third party subcontractors, at as many tiers as required, to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records to the extent required by 49 U.S.C. § 5325(g). The Recipient further agrees to require its third party contractors and third party subcontractors, to provide sufficient access to third party procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by FTA.

### **Changes to Federal Requirements**

#### **§ 2.c(1) Application of Federal, State, and Local Laws, Regulations, and Directives.**

##### **(1) Federal Laws, Regulations, and Directives.**

The Recipient agrees that Federal laws and regulations control Project award and implementation. The Recipient also agrees that Federal directives, as defined in this Master Agreement, set forth Federal terms applicable to the Project, except to the extent that FTA determines otherwise in writing. Thus, FTA strongly encourages adherence to applicable Federal directives. The Recipient understands and agrees that unless FTA has provided express written approval of an alternative procedure or course of action differing from a procedure or course of action set forth in the applicable Federal directive, the Recipient may incur a violation of the terms of its Grant Agreement or Cooperative Agreement or this Master Agreement if it implements an alternative procedure or course of action not approved by FTA.

The Recipient understands and agrees that Federal laws, regulations, and directives applicable to the Project and to the Applicant on the date on which the FTA Authorized Official awards Federal assistance for the Project may be modified from time to time. In particular, new Federal laws, regulations, and directives may become effective after the date on which the Recipient executes the Grant Agreement or Cooperative Agreement for the Project, and might apply to that Grant Agreement or Cooperative Agreement. The Recipient agrees that the most recent of such Federal laws, regulations, and directives will govern the administration of the Project at any particular time, except to the extent that FTA determines otherwise in writing.

FTA's written determination may take the form of a Special Condition, Special Requirement, Special Provision, or Condition of Award within the Grant Agreement or Cooperative Agreement for the Project, a change to an FTA directive, or a letter to the Recipient signed by the Federal Transit Administrator or his or her duly authorized designee, the text of which modifies or otherwise conditions a specific provision of the Grant Agreement or Cooperative Agreement for the Project or this Master Agreement. To accommodate changing Federal requirements, the Recipient agrees to include in each agreement with each sub recipient and each third party contract implementing the Project notice that Federal laws, regulations, and directives may change and that the changed requirements will apply to the Project, except to the extent that FTA determines otherwise in writing. All standards or limits in the Grant Agreement or Cooperative Agreement for the Project, and in this Master Agreement are minimum requirements, unless modified by FTA.

### **Civil Rights (Title VI, EEO, ADA)**

#### **§ 12 Section Civil Rights.**

The Recipient agrees to comply with all applicable civil rights laws, regulations and directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each sub recipient at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each sub recipient at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with any applicable implementing Federal directives that may be issued.

c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier of the Project and each sub recipient at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to comply with any applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The Recipient agrees as follows:

(a) The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) If the Recipient is required to submit and obtain Federal Government approval of its EEO program, that EEO program approved by the Federal Government is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. Failure by the Recipient to carry out the terms of that EEO program shall be treated as a violation of the Grant Agreement or Cooperative Agreement. Upon notification to the Recipient of its failure to carry out the approved EEO program, the Federal Government may impose such remedies as it considers appropriate, including termination of Federal assistance in accordance with Section 11 of this Master Agreement, or other measures that may affect the Recipient's eligibility to obtain future Federal assistance for transportation Projects.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Recipient agrees to comply and assures the compliance of each third party contractor at any tier or sub recipient at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL

regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

d. Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBE) in the Project and assures that each sub recipient, lessee, and third party contractor at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

(1) The Recipient agrees and assures that it will comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any third party contract, or sub agreement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub agreements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26 and approved by U.S. DOT, the Recipient's DBE program, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing Federal regulations that prohibit discrimination on the basis of sex that may be applicable.

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625.

g. Access for Individuals with Disabilities. The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall



be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the Recipient agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
  - (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
  - (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
  - (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
  - (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
  - (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
  - (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
  - (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
  - (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
  - (11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing.
- h. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Recipient agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 201 *et seq.*, and any amendments to these laws.

i. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 *Fed. Reg.* 6733 *et seq.*, January 22, 2001.

j. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

k. Other Nondiscrimination Laws. The Recipient agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

### **Disadvantaged Business Enterprises (DBEs)**

§ 12.d SEE ABOVE

### **Incorporation of FTA Terms**

§ 15.a Section 15. Procurement.

To the extent applicable, the Recipient agrees to comply with the following third party procurement provisions:

a. Federal Standards. The Recipient agrees to comply with the third party procurement requirements of 49 U.S.C. chapter 53 and other applicable Federal laws in effect now or as subsequently enacted; with U.S. DOT third party procurement regulations of 49 C.F.R. § 18.36 or at 49 C.F.R. §§ 19.40 through 19.48, and other applicable Federal regulations pertaining to third party procurements and subsequent amendments thereto, to the extent those regulations are consistent with SAFETEA-LU provisions. The Recipient also agrees to comply with the provisions of FTA Circular 4220.1E, "Third Party Contracting Requirements," to the extent those provisions are consistent with SAFETEA-LU provisions and to comply with any subsequent amendments thereto, except to the extent FTA determines otherwise in writing. Although the FTA "Best Practices Procurement Manual" provides additional procurement guidance, the Recipient understands that the FTA "Best Practices Procurement Manual" is focused on third party procurement processes and may omit certain Federal requirements applicable to the third party contract work to be performed.

### **Terminations**

§ 11 Section 11. Right of the Federal Government to Terminate.

Upon written notice, the Recipient agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Recipient understands and agrees that any failure to make reasonable progress on the Project or violation of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement that endangers substantial performance

of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Recipient before the termination date to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Recipient has willfully misused Federal assistance by failing to make adequate progress, failing to make reasonable and appropriate use of Project property, or failing to comply with the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, the Federal Government reserves the right to require the Recipient to refund the entire amount of Federal assistance provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement for the Project.

### **Suspension and Debarment**

o § 11 SEE ABOVE

### **Buy America**

o §14.a Section 14. Preference for United States Products and Services.

To the extent applicable, the Recipient agrees to comply with the following U.S. domestic preference requirements:

a. Buy America. The Recipient agrees to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661 to the extent those regulations are consistent with SAFETEA-LU provisions, and subsequent amendments to those regulations that may be promulgated. The Recipient also agrees to comply with FTA directives to the extent those directives are consistent with SAFETEA-LU provisions, except to the extent that FTA determines otherwise in writing.

### **Resolution of Disputes, Breaches, or Other Litigation**

§ 52 Section 52. Disputes, Breaches, Defaults, or Other Litigation.

The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

a. Notification to FTA. The Recipient agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA in writing before doing so. Each notice to FTA under this Section shall be sent, at a minimum, to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.

b. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery, except that the Recipient may return any liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.

c. Enforcement. The Recipient agrees to pursue all legal rights provided within any third party contract.

d. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.

e. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

### **Lobbying**

§ 3.d d. Lobbying Restrictions. The Recipient agrees that:

(1) In compliance with 31 U.S.C. 1352(a), it will not use Federal assistance to pay the costs of influencing any officer or employee of a Federal agency, Member of Congress, officer of Congress or employee of a member of Congress, in connection with making or extending the Grant Agreement or Cooperative Agreement;

(2) In addition, it will comply with other applicable Federal laws and regulations prohibiting the use of Federal assistance for activities, designed to influence Congress or a State legislature with respect to legislation or appropriations, except through proper, official channels; and

(3) It will comply, and will assure the compliance of each sub recipient, lessee, or third party contractor at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

### **Clean Air**

§ 25.b b. Air Quality.

Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal laws, regulations, and directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. In addition:

(1) The Recipient agrees to comply with the applicable requirements of section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 US.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, and any subsequent Federal conformity regulations that may be promulgated. To support the requisite air quality conformity finding for the Project, the Recipient agrees to implement each air quality mitigation or control measure incorporated in the Project. The Recipient further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, which may apply to public transportation operators, particularly operators of large public transportation bus fleets. Accordingly, the Recipient agrees to comply with the following U.S. EPA regulations to the extent they apply to the Project: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Recipient agrees to comply with the notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

### **Clean Water**

§ 25.c c. Clean Water.

Except to the extent the Federal Government determines otherwise in writing, the Recipient agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

(1) The Recipient agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

(2) The Recipient agrees to comply with the notice of violating facility provisions of Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

### **Energy Conservation**

§ 26 Section 26. Energy Conservation.

The Recipient agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Recipient agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

### **ADA Access**

§ 12.g **SEE ABOVE**

### **Recycled Products**

§ 15.k k. Preference for Recycled Products.

To the extent applicable, the Recipient agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and with subsequent Federal regulations that may be promulgated. Accordingly, the Recipient agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

## APPENDIX D – CERTIFICATION REGARDING LOBBYING

I \_\_\_\_\_ hereby certifies, to the best of his or her knowledge and belief, that:

(1) No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification hereof.

(2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413

(1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *a.*)).

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code(as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE PROPOSER CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Company Name: \_\_\_\_\_

Name of Responsible Official: \_\_\_\_\_

Title of Responsible Official: \_\_\_\_\_

Signature of Responsible Official: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX E – ADVERTISEMENT



CITY OF ASHEVILLE, NORTH CAROLINA

# Request for Proposal Marketing Plan

**To: Professional Service Provider Proposal Participants**

**The City of Asheville, is requesting sealed proposals to develop a Marketing Plan including, design, production, installation and printing of marketing materials.**

**1. Proposals:** Please complete the attached “Proposal Form” and mail to the City of Asheville, Transportation Division Office, 70 Court Plaza, Mezzanine, Asheville, NC, 28801, in a sealed envelope. All proposals must be signed and sealed before mailing. Unsealed proposals, including faxed proposals will not be considered. Retain a copy for your file. Sealed envelopes are requested inside carrier’s envelope. If you do not wish to submit a proposal, please return the form to this office and note the reason you do not wish to submit a proposal. If you have any questions please contact Mariate Echeverry, Transportation Planning Manager at [mecheverry@ashevillenc.gov](mailto:mecheverry@ashevillenc.gov) .

**2. Due Date and Time:** Proposals furnishing the Marketing Plan described herein will be received at the City of Asheville Transportation Office **until Friday, August 27, 2010 at 4:00 P.M.** Any proposals received after the above stated date and time will not be considered. It is the responsibility of the person/firm submitting a proposal to ensure that it is received at the physical address of the City of Asheville Transportation Office prior to the stated deadline. **Proposals will be opened and recorded at 4:00 P.M. on the same day.**

**3. Acknowledgement and Amendments:** Receipt of any amendment of this RFP must be acknowledged, in writing, prior to the stated submission deadline. Such acknowledgement may be submitted with the offer.

**4. RFP not an Order:** This Request for Proposal is not to be considered as an order by the City of Asheville. Upon acceptance of the proposal the City of Asheville will work with the Service Provider to complete a “Professional Services Contract” and a blank copy with terms and conditions is enclosed with this RFP.

**5. Award:** If “Professional Services Contract (s)” are awarded based on the proposal forms submitted, it will be awarded to the responsive and responsible service provider(s) whose offer conforms to the RFP and will be the most advantageous to the City of Asheville as set forth in its evaluation criteria.

**6. Public Record:** Any information contained in this proposal is subject to public disclosure upon final award of a Professional Services Contract unless the bidder states in the proposal that part of their proposal is proprietary and confidential.

The U.S. Department of Transportation (FTA) Disadvantaged Business Enterprise Program (DBE) goals are hereby made a part of these contract documents. The goals for participation by Disadvantaged Business Enterprise firms and subcontractors on this project have been set by the City of Asheville, North Carolina at 1.01%, In accordance with Federal Regulation, 49CFR, Part 26, dated February 1999. The North Carolina Department of Transportation (NCDOT) Directory of Certified Disadvantaged Businesses can be found at <https://apps.dot.state.nc.us/vendor/directory/>. If you have questions regarding DBE outreach, please contact Yuri Koslen, Transit Projects Coordinator at (828) 232-4522 or [ykoslen@ashevillenc.gov](mailto:ykoslen@ashevillenc.gov).

Firms responding to this request for qualifications are notified of a City policy that prohibits contracting with persons or firms who are delinquent in the payment of ad valorem taxes owed to the City of Asheville.

The City of Asheville reserves the right to reject any and/or all letters of interest and statements of qualifications.

## **APPENDIX F**

### **BUY AMERICA CERTIFICATION**

#### **Certificate of Compliance**

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_



## APPENDIX G

REQUEST FOR FORMAL BIDS AND PROPOSALS ON  
\_ Consulting Services In Support Of  
City of Asheville Transit Marketing Program  
TRANSPORTATION DEPARTMENT/TRANSIT DIVISION

THE UNDERSIGNED AFIRMS THAT THE PROPOSAL MADE HERE-IN IS MADE WITHOUT ANY CONNECTIONS WITH ANY OTHER PERSON, OR PERSONS, MAKING ANY OTHER PROPOSAL FOR THE ABOVE ITEM(S): THAT IT IS IN ALL RESPECTS FAIR AND WITHOUT COLUSION OR FRAUD:

THAT \_\_\_\_\_ (FIRM NAME) IS NOT CONNECTED IN ANY OFFICIAL CAPACITY WITH THE CITY OF ASHEVILLE, AND THAT NO PERSON, OR PERSONS, ACTING IN SUCH CAPACITY ARE DIRECTLY, OR INDIRECTLY, INTERESTED HEREIN OR IN ANY OF THE PROFIT ARISING OR ANTICIPATED FROM THIS TRANSACTION.

IN MAKING THIS PROPOSAL, IT IS UNDERSTOOD AND AGREED, THAT THE CONDITIONS SET FORTH IN THE ADVERTISEMENT FOR BIDS, INSTRUCTIONS TO BIDDERS, TERMS AND CONDITIONS AND SPECIFICATIONS TOGETHER WITH THE PROPOSAL SHALL FORM A PART OF AND BE CONSTRUED WITH THE CONTRACT MADE UNDER THE SAME.

THE ACCEPTANCE OF THIS PROPOSAL BY THE CITY OF ASHEVILLE, AS EVIDENCED BY THE ISSUANCE OF A CITY OF ASHEVILLE PURCHASE ORDER, WILL BE HELD TO BE A MUTUAL AGREEMENT AS TO EACH AND EVERY CLAUSE OF THIS PROPOSAL AND TO CONSTITUTE A CONTRACT BETWEEN THE PARTIES HERETO.

FIRM NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

## APPENDIX H

### RESPONSIBILITIES OF PROPOSAL EVALUATION COMMITTEE MEMBERS

RFP/RFQ NO \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE \_\_\_\_\_

Thank you for participating on the evaluation committee for this Request for Proposals (RFP) or Request for Qualifications (RFQ)). To protect the integrity of this solicitation and the evaluation process, it is essential that each participant understands and abides by the following responsibilities. Adherence to these requirements will help assure the effectiveness of the evaluation team as a whole, and protect the overall interests of City of Asheville in the award of this RFP/RFQ.

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1. **Fairness and Integrity.** It is the responsibility of every member on the evaluation panel to collectively ensure that the evaluation is conducted in an impartial, objective and professional manner, and that the same level of effort is extended to the evaluation of all vendors' proposals.
2. **Understanding of the Project.** Your success as an effective member of the team depends on your comprehensive understanding of the project, and your familiarity with the requirements and specifications contained in the RFP/RFQ. A copy of the RFP/RFQ will be provided to you upon publication, so that you may familiarize yourself with it even in advance of receiving proposals.
3. **Attendance.** Attendance of all committee members at all scheduled meetings is crucial to the quality of the evaluation process. Without all representatives present, meetings are not effective, as not all opinions can be shared in a group setting. Therefore, committee members must attend all meetings of the committee, including interviews with the proposers if conducted, and must agree to participate in any off-site visits, if scheduled. Additionally, committee members must not discuss the evaluation with one another unless all members are present; avoid unsanctioned, mini-meetings. You may also be requested to attend the pre-proposal conference (with potential vendors), but this is usually rare.
4. **Confidentiality.** To preserve the integrity of the evaluation process, the following rules of confidentiality must be observed:
  - a. Committee members must not communicate with others outside of the evaluation committee on the nature or content of the written proposals, product demonstrations, interviews, the evaluation proceedings, the deliberations of the evaluation panel, or individual opinions about the proposers or the project. The names of the proposers/firms who have submitted proposals must also be held in confidence. Some panel members may be compelled to communicate the details of their involvement with their supervisor, department head, or other superior(s) from time to time; however, it is imperative that the panel member convey the importance of confidentiality to those individuals.
  - b. More importantly, committee members must not communicate with proposers about this project outside of any scheduled and sanctioned evaluation activity, without the knowledge and approval of the Purchasing Division. If any member of this evaluation committee has any reason to contact one or more proposers participating in this RFP/RFQ, even if the matter is not directly or indirectly related to this project, they must immediately divulge the nature and reason of the contact with the firm to the Purchasing Division, who will determine if that activity poses a conflict with the person's participation on this evaluation committee.
5. **Conflicts of Interest.** You may not participate as a member of this committee if you, or a family member, have a personal interest in any company that may submit a proposal. A family member is defined as your spouse, children, grandchildren, brothers, sisters, half-brothers or half-sisters, brothers- and sisters-in-law, children of

your spouse, and children of your brothers, sisters, half-brothers, or half-sisters. You must agree that if you currently have, or later discover, a conflict of interest which meet these criteria, you will declare the circumstances immediately to the Purchasing Manager, and remove yourself from the committee.

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**I understand and agree to adhere to the above guidelines for proposal evaluations. I do not currently have a Conflict of Interest which would prevent my participation in this process.**

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Phone:**

\_\_\_\_\_

**Dept/Organization:** \_\_\_\_\_